

By: Davis of Dallas

H.B. No. 3528

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of the practice of dietetics and nutrition care services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 701.001, Occupations Code, is amended to read as follows:

Sec. 701.001. SHORT TITLE. This chapter may be cited as the Texas Dietetics and Nutrition Practice [~~Licensed Dietitian~~] Act.

SECTION 2. Section 701.002, Occupations Code, is amended by amending Subdivisions (3), (4), (6), (7), and (8) and adding Subdivision (6-a) to read as follows:

(3) "Dietetics" means the integration and application of [~~professional discipline of applying and integrating~~] scientific principles of food, nutrition, biochemistry, physiology, management, and behavioral and social sciences under different health, social, cultural, physical, psychological, and economic conditions for the proper nourishment, care, and education of an individual or group throughout the life cycle to achieve and maintain human health. The term includes the development, management, and provision of nutrition services.

(4) "Dietitians board" means the Texas [~~State~~] Board of Dietetics and Nutrition [~~Examiners of Dietitians~~].

(6) "Nutrition assessment" means evaluating the nutrition [~~nutritional~~] needs of an individual or group, using

1 relevant data, to make appropriate nutrition recommendations  
2 ~~[based on appropriate biochemical, anthropometric, physical, and~~  
3 ~~dietary data to determine nutrient needs and recommend appropriate~~  
4 ~~nutritional intake, including enteral and parenteral nutrition].~~

5 (6-a) "Nutrition care services" means all nutrition  
6 services provided by a licensed dietitian in each area of practice,  
7 including assessment, evaluation, counseling, research, education,  
8 monitoring, consultation, development, and implementation of food  
9 and nutrition-related services.

10 (7) "Nutrition counseling" means advising and  
11 assisting an individual or group on appropriate nutrition-related  
12 behavior by integrating information from the nutrition assessment  
13 ~~[nutritional intake by integrating information from a nutrition~~  
14 ~~assessment with information on food and other sources of nutrients~~  
15 ~~and meal preparation consistent with cultural background and~~  
16 ~~socioeconomic status].~~

17 (8) "Practice of dietetics and nutrition care  
18 ~~[Nutrition] services" includes [means]:~~

19 (A) assessing the nutrition [nutritional] needs  
20 of an individual or group based on biochemical, anthropometric,  
21 physical, and dietary data, [and] determining constraints and  
22 resources to meet the nutrition needs of an individual or group, and  
23 recommending proper nutrition intervention, including specialized  
24 nutrition support such as determining nutrient needs for enteral  
25 and parenteral nutrition and monitoring to evaluate patient  
26 response to that treatment [in the practice];

27 (B) establishing priorities, objectives, and

1 goals that meet the nutrition [~~nutritional~~] needs of the individual  
2 or group based on [~~and are consistent with~~] constraints and  
3 available resources;

4 (C) providing nutrition education and counseling  
5 in health and disease;

6 (D) developing, implementing, and managing food  
7 and nutrition [~~nutritional~~] care services [~~systems~~]; [~~or~~]

8 (E) evaluating, adjusting [~~changing~~], and  
9 maintaining appropriate quality standards in dietetics [~~food~~] and  
10 nutrition [~~nutritional~~] care services; and

11 (F) providing medical nutrition therapy in  
12 accordance with 42 U.S.C. Section 1395x(vv).

13 SECTION 3. Section 701.003, Occupations Code, is amended to  
14 read as follows:

15 Sec. 701.003. APPLICATION OF SUNSET ACT. The Texas [~~State~~]  
16 Board of Dietetics and Nutrition [~~Examiners of Dietitians~~] is  
17 subject to Chapter 325, Government Code (Texas Sunset Act). Unless  
18 continued in existence as provided by that chapter, the board is  
19 abolished September 1, 2017.

20 SECTION 4. Subchapter A, Chapter 701, Occupations Code, is  
21 amended by adding Sections 701.004 and 701.005 to read as follows:

22 Sec. 701.004. EXEMPTIONS. (a) This chapter does not apply  
23 to a person who is a:

24 (1) retailer that furnishes oral or written general  
25 nutrition information to a customer on food, food materials,  
26 dietary supplements, or other goods sold at the retailer's  
27 establishment in connection with the marketing and distribution of

1 those goods at the retailer's establishment;

2 (2) person that furnishes oral or written general  
3 nutrition information on food, food materials, or dietary  
4 supplements;

5 (3) person engaged in the practice of the tenets of any  
6 religion, sect, or denomination that furnishes oral or written  
7 general nutrition information on food, food materials, or dietary  
8 supplements;

9 (4) person who disseminates oral or written general  
10 nutrition information, conducts a class or seminar, or gives a  
11 speech related to dietetics and nutrition care services;

12 (5) licensed health care professional practicing  
13 within the person's scope of practice;

14 (6) student or trainee working under the direct  
15 supervision of a licensed dietitian for a limited period as  
16 determined by the dietitians board, while fulfilling an experience  
17 requirement or pursuing a course of study to meet the requirements  
18 for a license under this chapter;

19 (7) person assisting in the practice of dietetics and  
20 nutrition care services under the direct supervision of a licensed  
21 dietitian and performing only support activities; or

22 (8) person providing a program of weight control  
23 services if the program has been reviewed by, consultation is  
24 available from, and no program change can be initiated without  
25 prior approval of a:

26 (A) dietitian registered by the Commission on  
27 Dietetic Registration; or



1           (2) three members who represent the public, including  
2 one physician.

3           SECTION 7. Sections 701.2041(c), (e), (f), (h), and (i),  
4 Occupations Code, are amended to read as follows:

5           (c) If a person fails to comply with a subpoena, the  
6 dietitians [~~dieticians~~] board, acting through the attorney  
7 general, may file suit to enforce the subpoena in a district court  
8 in Travis County or in the county in which a hearing conducted by  
9 the board may be held.

10          (e) The board may delegate the authority granted under  
11 Subsection (a) to the executive secretary of the dietitians  
12 [~~dieticians~~] board.

13          (f) The dietitians [~~dieticians~~] board shall pay a  
14 reasonable fee for photocopies subpoenaed under this section in an  
15 amount not to exceed the amount the board may charge for copies of  
16 its records.

17          (h) All information and materials subpoenaed or compiled by  
18 the dietitians [~~dieticians~~] board in connection with a complaint  
19 and investigation are confidential and not subject to disclosure  
20 under Chapter 552, Government Code, and not subject to disclosure,  
21 discovery, subpoena, or other means of legal compulsion for their  
22 release to anyone other than the board or its employees or agents  
23 involved in discipline of the holder of a license, except that this  
24 information may be disclosed to:

25           (1) persons involved with the board in a disciplinary  
26 action against the holder of a license;

27           (2) professional dietitian licensing or disciplinary

1 boards in other jurisdictions;

2 (3) peer assistance programs approved by the board  
3 under Chapter 467, Health and Safety Code;

4 (4) law enforcement agencies; and

5 (5) persons engaged in bona fide research, if all  
6 individual-identifying information has been deleted.

7 (i) The filing of formal charges by the dietitians  
8 [~~dietitians~~] board against a holder of a license, the nature of  
9 those charges, disciplinary proceedings of the board, and final  
10 disciplinary actions, including warnings and reprimands, by the  
11 board are not confidential and are subject to disclosure in  
12 accordance with Chapter 552, Government Code.

13 SECTION 8. Section 701.251(b), Occupations Code, is amended  
14 to read as follows:

15 (b) Unless the person holds a a [~~an appropriate~~] license  
16 issued under this chapter, a person may not:

17 (1) use the title or represent or imply that the person  
18 has the title "dietitian" [~~"licensed dietitian"~~] or "provisional  
19 licensed dietitian" or use the letters "LD" or "PLD"; [~~or~~]

20 (2) use a facsimile of those titles or letters to  
21 indicate or imply that the person is a dietitian, licensed  
22 dietitian, or provisional licensed dietitian; or

23 (3) engage in the practice of dietetics and nutrition  
24 care services.

25 SECTION 9. Section 701.252(a), Occupations Code, is amended  
26 to read as follows:

27 (a) Each applicant for a [~~dietitian~~] license under this

1 chapter must submit a sworn application accompanied by the  
2 application fee.

3 SECTION 10. Sections 701.253(c) and (e), Occupations Code,  
4 are amended to read as follows:

5 (c) The dietitians board shall [~~prepare or~~] approve an  
6 examination administered [~~. An examination prescribed by the board~~  
7 ~~may be or may include an examination given~~] by the Commission on  
8 Dietetic Registration unless the board finds that the examination  
9 is inadequate to protect the public health and safety [~~or by a~~  
10 ~~national or state testing service instead of an examination~~  
11 ~~prepared by the board~~].

12 (e) Examinations [~~The dietitians board~~] shall be  
13 administered [~~administer an examination~~] to qualified applicants  
14 at least twice each calendar year.

15 SECTION 11. Section 701.254, Occupations Code, is amended  
16 to read as follows:

17 Sec. 701.254. QUALIFICATIONS FOR EXAMINATION. (a) To  
18 qualify for the licensing examination under this chapter, an  
19 applicant must:

20 (1) possess at least a baccalaureate [~~or~~  
21 ~~postbaccalaureate~~] degree from a United States [~~, conferred by a~~  
22 ~~college or university~~] regionally accredited college or university  
23 [~~at the time of conferral,~~] with[+]

24 [~~(A)~~] a major course of study in human nutrition,  
25 food and nutrition, nutrition education, dietetics, or food systems  
26 management; [~~or~~

27 [~~(B) an equivalent major course of study approved~~

1 ~~by the dietitians board,~~] and

2           (2) have completed a [~~an internship or preplanned,~~]  
3 documented supervised practice [~~, professional~~] experience  
4 component [~~program~~] in dietetics [~~practice~~] of not less than 900  
5 hours under the supervision of a licensed dietitian, a  
6 state-licensed health care practitioner, or an individual with a  
7 doctoral degree conferred by a regionally accredited college or  
8 university with a major course of study in human nutrition, food and  
9 nutrition, nutrition education, dietetics, or food systems  
10 management [~~or a registered dietitian approved by the board~~].

11           (b) The supervised practice experience component must be  
12 completed in the United States.

13           (c) The dietitians board shall determine whether a degree  
14 conferred on an applicant by an educational institution outside of  
15 the United States is equivalent to a degree conferred by a  
16 regionally accredited institution of higher education in the United  
17 States.

18           (d) The dietitians board shall determine whether the degree  
19 of a person who holds a doctoral degree conferred outside the United  
20 States is equivalent to a doctoral degree conferred by a regionally  
21 accredited institution of higher education in the United States  
22 before the person may supervise a practice experience component  
23 under this section.

24           SECTION 12. Section 701.257, Occupations Code, is amended  
25 to read as follows:

26           Sec. 701.257. REEXAMINATION FOR LICENSING EXAMINATION. An  
27 applicant who fails the licensing examination [~~three times~~] must

1 comply with [~~provide evidence to the dietitians board that the~~  
2 ~~applicant has successfully completed credit hours in the~~  
3 ~~applicant's areas of weakness before~~] the [~~applicant may apply for~~  
4 reexamination requirements of the entity that administers the  
5 examination under Section 701.253(c).

6 SECTION 13. Section 701.258, Occupations Code, is amended  
7 to read as follows:

8 Sec. 701.258. QUALIFIED PERSON ENTITLED TO LICENSE. The  
9 dietitians board shall issue a license under this chapter to a  
10 person who:

- 11 (1) submits an application under Section 701.252;  
12 (2) passes the jurisprudence examination under  
13 Section 701.2575;  
14 (3) passes the examination under Section 701.253;  
15 (4) pays the required examination and application  
16 fees; and  
17 (5) is otherwise [~~certificate as a licensed dietitian~~  
18 ~~to a person~~] qualified for a license under this chapter.

19 SECTION 14. Subchapter H, Chapter 701, Occupations Code, is  
20 amended by adding Section 701.354 to read as follows:

21 Sec. 701.354. REIMBURSEMENT NOT MANDATED; SERVICES  
22 AUTHORIZED. (a) This chapter does not require new or additional  
23 third-party reimbursement or mandated workers' compensation  
24 benefits for services provided by a license holder under this  
25 chapter.

26 (b) A license holder under this chapter is qualified to  
27 provide medical nutrition therapy in accordance with 42 U.S.C.

1 Section 1395x(vv).

2 SECTION 15. The following sections of the Occupations Code  
3 are repealed:

4 (1) Section 701.253(d); and

5 (2) Section 701.260.

6 SECTION 16. The change in law made by this Act by the  
7 enactment of Section 701.251(b)(3) applies only to the practice of  
8 dietetics and nutrition care services on or after September 1,  
9 2009. The practice of dietetics and nutrition care services before  
10 that date is governed by the law in effect on the date the practice  
11 occurred, and the former law is continued in effect for that  
12 purpose.

13 SECTION 17. The changes in law made by this Act in the  
14 qualifications of public members of the Texas Board of Dietetics  
15 and Nutrition do not affect the entitlement of a member serving on  
16 the board immediately before the effective date of this Act to  
17 continue to serve for the remainder of the member's term. As the  
18 terms of board members expire, the governor shall appoint or  
19 reappoint a member who has the qualifications required for a member  
20 under Section 701.051(a)(2), Occupations Code, as amended by this  
21 Act.

22 SECTION 18. The changes in law made by this Act by the  
23 amendment of Sections 701.253 and 701.254, Occupations Code, apply  
24 only to a person who submits an application for a license under  
25 Chapter 701, Occupations Code, on or after the effective date of  
26 this Act. A person who submits an application before the effective  
27 date of this Act is governed by the law in effect on the date the

1 application is submitted, and the former law is continued in effect  
2 for that purpose.

3 SECTION 19. The change in law made by this Act by the  
4 amendment of Section 701.257, Occupations Code, applies only to a  
5 person who submits an application for reexamination on or after the  
6 effective date of this Act. A person who submits an application for  
7 reexamination before the effective date of this Act is governed by  
8 the law in effect on the date the application is submitted, and the  
9 former law is continued in effect for that purpose.

10 SECTION 20. This Act takes effect September 1, 2009.